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NOTE AND COMMENT.

THE LAW SCHOOL.—Several changes in the personnel of the law faculty are to be noted. Dean Harry B. Hutchins, after serving with great success as Acting President of the University last year, has been elected as President to succeed Dr. James B. Angell, and has thus severed his active connection with the law school. Professor Henry M. Bates, who had in February presented to the Regents his resignation to take effect in June, and who had, while continuing his work in the law school, entered into the practice of law in Detroit, has been chosen as Dean and returns to enter on his new duties this fall. Professor James H. Brewster has taken a year's leave of absence. Mr. Victor R. McLucas, who graduated from the law school in 1905 and has since been practicing in Omaha, has accepted an assistant professorship, and will divide his time between the practice court and the work in practical conveyancing.

VALIDITY OF LEGISLATION LIMITING HOURS OF LABOR FOR WOMEN.—Public opinion and the development of social and economic thought are well read in the decisions of the courts. An excellent illustration of this is found in the

recent case of *Ritchie & Co. et al.* v. *Wayman,* 244 Ill. 509, 91 N. E. 695, decided April 21, 1910. In 1893 the Illinois legislature in a statute entitled "An act to regulate the manufacture of clothing, wearing apparel, and other articles in this State, and to provide for the appointment of State inspectors to enforce the same, and to make an appropriation therefor," enacted, among other things, that "No female shall be employed in any factory or workshop more than eight hours in any one day or forty-eight hours in any one week." (Laws of 1893, p. 99). In *Ritchie* v. *People,* 155 Ill. 98, the supreme court of that state reversed a conviction of one Ritchie who had been prosecuted for a violation of the provision above quoted, holding that the statute was unconstitutional because it denied to citizens of the state that freedom to contract which is guaranteed by the constitution. In 1909 the legislature enacted a statute providing "That no female shall be employed in any mechanical establishment or factory or laundry in this state, more than ten hours during any one day. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than ten hours during the twenty-four hours of any day." (Laws of 1909, p. 212). The title of this act was, "An Act to regulate and limit the hours of employment of females in any mechanical establishment or factory or laundry in order to safeguard the health of such employees; to provide for its enforcement and a penalty for its violation." Proceedings having been instituted by the State's Attorney and the Chief State Factory Inspector against Ritchie & Co. and W. E. Ritchie for violation of the act, a bill was filed by the defendants in the criminal action against the prosecutors asking that the State's Attorney and Factory Inspector be restrained from enforcing the provisions of the act as against the complainants. A demurrer to the bill was overruled, and an appeal taken to the supreme court. In the latter court it was held, Mr. Justice VICKERS dissenting, that the act was constitutional.

In 1906 the supreme court of Oregon had held a statute of which the Illinois act of 1909 was an exact copy constitutional. *State* v. *Muller,* 48 Ore. 252, 120 Am. St. Rep. 805. This Oregon case was taken to the Supreme Court of the United States and there affirmed. *Muller* v. *Oregon,* 208 U. S. 412. The conclusion of the supreme court was that under the police power the states had authority to enact laws tending to promote the public health, comfort and welfare, that certain kinds of labor if engaged in for lengthy periods of time were deleterious to the health of women, that unhealthy women could not rear healthy children, that healthy, robust children were of extreme importance in the state's development and progress, and that therefore the legislation was clearly within the police power. The Illinois court in the second Ritchie case adopted and followed this line of reasoning. In the course of its opinion the court said: "It is known to all men (and what we know as men we cannot profess to be ignorant of as judges) that woman's physical structure and the performance of maternal functions, place her at a great disadvantage in the battle of life; that while a man can work for more than ten hours a day without injury to himself, a woman, especially when the burdens of motherhood are upon her, cannot; that while a

man can work standing upon his feet for more than ten hours a day, day after day, without injury to himself, a woman cannot, and that to require a woman to stand upon her feet for more than ten hours in any one day and perform severe manual labor while thus standing, day after day, has the effect to impair her health, and that as weakly and sickly women cannot be the mothers of vigorous children, it is of the greatest importance to the public that the state take such measures as may be necessary to protect its women from the consequences induced by long, continuous labor in those occupations which tend to break them down physically."

The court attempted to distinguish their holding from that of the same court in the earlier case. After quoting from the earlier opinion the court said: "We therefore repeat what we have once said, that it is not at all clear that the court in rendering the opinion in the Ritchie case, where an eight hour day was held to be unconstitutional, was of opinion a statute fixing a ten hour day in which women might work would be unconstitutional." It would seem that the court was not very successful in distinguishing the two cases.

In addition to the decisions of the Oregon court and the United States Supreme Court, supra, the following cases have sustained similar legislation: *Wenham* v. *State,* 65 Neb. 394, 91 N. W. 421, 58 L. R. A. 825; *Commonwealth* v. *Hamilton Manf. Co.,* 120 Mass. 383; *Washington* v. *Buchanan,* 29 Wash. 602, 59 L. R. A. 342. In connection with these cases it is interesting to compare the case of *Lochner* v. *New York,* 198 U. S. 45, in which it was held that a New York statute limiting the hours of labor of *men* working in bakeries to ten per day was unconstitutional as denying the freedom to contract. For a somewhat extended discussion of the subject of limiting hours of labor for women see 8 MICH. L. REV. 1. R. W. A.

CONSTITUTIONALITY OF THE NEW JERSEY STATUTES PROVIDING FOR THE GOVERNMENT OF CERTAIN CITIES BY APPOINTED BOARDS.—The growing desire of the inhabitants of cities to centralize the responsibility of city government in the mayor, or other chief administrative official, is evidenced by recent legislation in many states. This is usually attempted to be accomplished by the distribution of the powers of government among certain boards, created for that purpose, whose members are appointed by the mayor. Legislation of this sort has been attacked in various ways and the litigation in such cases has given rise to much discussion and many interesting decisions.

A recent case of this sort is *Wilson, Atty. Gen.* v. *McKelvey, et al.,* decided by the Court of Errors and Appeals of New Jersey, June 20, 1910, and reported in 77 Atl. 94. The New Jersey legislature, in 1907, passed three acts, the purpose of which evidently was to create a new form of city government for the city of Paterson. These acts (Laws of New Jersey, 1907, pp. 79, 89, and 114) created three boards or commissions, a Board of Fire and Police Commissioners, a Board of Finance and a Board of Public Works, and among these three apportioned a great number of the more important functions of city government and administration. The members of these respective boards were directed to be appointed by the mayor; and their ordi-